



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:

Issuance Date:

Public Notice No. 200300686

September 15, 2004

Stream:

Expiration Date:

UT Georges Creek

October 15, 2004

Address comments to:

US Army Corps of Engineers, Huntington District
602 Eighth Street
ATTN: CELRHF
Huntington, West Virginia 25701-2070

PUBLIC NOTICE

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Highland Mining Company
Post Office Box 849
Stollings, West Virginia 25646

LOCATION: The proposed project is located in unnamed tributaries of Georges Creek approximately 1.9 miles southeast of the town of Ethel, in Logan County, West Virginia (latitude 37° 50' 23" and longitude 81° 51' 40") as depicted on the attached **Drawing No. 1**.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place fill material into waters of the U.S. to construct three hollow fills and three sediment ponds associated with the proposed Georges Creek Surface Mine. This project was previously evaluated and coordinated with the resource agencies under the NWP 21 pre-construction notification process on October 22, 2003. Plans of the proposed hollow fill configurations may be referenced on the attached **Drawing No. 2**. Individual impacts associated with the proposed project have been indicated on the impact and mitigation comparison table enclosed as page five. The size of the watersheds involved with the proposed impacts range from 65.0 to 249.0 acres. The proposed project would result in a total of 9,450 linear feet of permanent impacts and 1,140 linear feet of temporary impacts to intermittent and ephemeral streams. These figures may be reference by the corresponding **Drawing No. 3, 4 and 5**.

The West Virginia Department of Environmental Protection (WVDEP) authorized the proposed mining operation by Permit No. S-5002-01 (dated December 20, 2002) pursuant to the Surface Mining Control and Reclamation Act of 1977. A National Pollutant Discharge Elimination System (NPDES) Permit No. WV1020463 (dated June 1, 2000) has been issued by the WVDEP and includes a state General Mitigation and Compensation Agreement.

MITIGATION PLAN: The applicant submitted a compensatory mitigation plan (CMP) to compensate for permanent and temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. The goal of the proposed CMP is to replace the unavoidable impacts to streams in association with this project. The applicant has proposed to accomplish this goal by restoring the stream segments temporary impacted by Sediment Ponds 1,

2, and 3, replacing the intermittent streams lost due to placement of permanent Fills 1 and 3 by constructing streams within sediment channels 4 and 7, and planting riparian vegetation along the perimeter ditches of Fill 1 to offset the permanent ephemeral stream loss (reference attached impact and mitigation comparison table). Rosgen-type natural stream design techniques would be applied to each mitigation site. The applicant is not proposing any mitigation for the temporary sediment corridor (secondary impacts) other than removal of any accumulated sediment and re-establishing any riparian vegetation removed during the sediment removal operations.

The applicant proposes monitoring of completed mitigation sites for a minimum of five years in accordance with their proposed performance standards parameters, which include: pH, Specific conductance, Dissolved Oxygen, Epifaunal Substrate, Embeddedness, Velocity/Depth Regime, Sediment Deposition, Channel Flow Status, Channel Alteration, Frequency of Riffles, Bank Stability, Vegetative Protection and Riparian Zone Diversity. The mitigation sites would be protected in perpetuity to reduce the risk of success. In the event successful mitigation is not obtained, the applicant has provided a contingency plan that includes the following options: request additional time, full or partial in-lieu-fee payment, re-design of the stream mitigation, mitigation banking and/or preservation mitigation.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. This public notice serves as coordination with the State Historic Preservation Officer regarding historic properties. If the West Virginia Division of Culture and History (WVDCH) believe any potential effects to historic properties may result from the proposed permitting action, we request the WVDCH provide information to this office pursuant to Section 106 of the National Historic Preservation Act.

It should be acknowledged previous correspondence, dated November 3, 2003 (FR No. 04-89-LG), received from the WVDCH under the past pre-construction notification process did not indicate any known historical, architectural or archaeological sites listed on or eligible for inclusion in the National Register of Historic Places would be affected by this project based upon a field survey and a Phase I Archeological Survey. In light of this project being re-evaluated through the public notice process, it is requested the WVDCH advise this office of their current determination.

ENDANGERED/THREATENED SPECIES REVIEW: This public notice also serves as coordination with the U. S. Fish and Wildlife Service (USFWS) regarding threatened or endangered species. The applicant has provided a mist net survey for the Indiana (*Myotis sodalis*) and Virginia big-eared (*Corynorhinus townsendii virginianus*) bats. Previous correspondence pursuant to Section 7 of the Endangered Species Act, dated November 26, 2003,

received from the USFWS, Elkins Field Office indicated the proposed project may effect the potential existence or habitat of the Indiana and/or Virginia big-eared bats.

If the Service believes any potential effects to federally listed species would be attributable to the project, we request the Service provide any additional information pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended). Upon evaluation of the submitted survey and mine portal determination, it is requested the USFWS advise this office of their present findings.

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U. S. Army Corps of Engineers
ATTN: CEORH-OR-F Public Notice No. **200300686**
502 Eighth Street
Huntington, West Virginia 25701-2070

If you have any questions concerning this public notice, please call Mr. Mike Hatten of the South Regulatory Section at 304-399-5710.



Ginger Mullins, Chief
Regulatory Branch

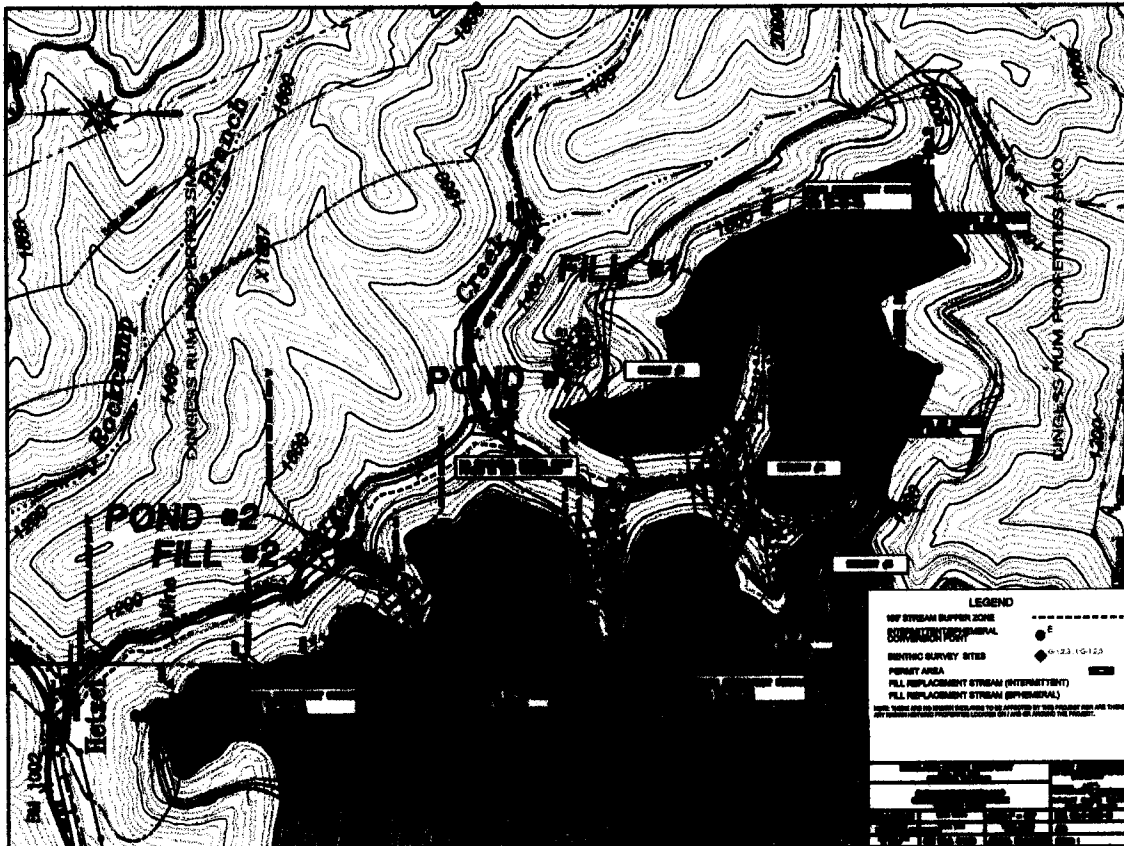
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Table A
Highland Mining Company ~ Georges Creek Surface Mine
200300686-U/T Georges Creek (Article 3 Permit No. S-5002-01)

Mining Activity	Permanent (Placement of Fill Material Into Jurisdictional Waters of the U.S.)			Temporary (Sediment Pond and Embankment)			Temporary (Stream Restoration Zone~Toe of Valley Fill to Upstream End of Sediment Pond)			Duration of Impacts	Proposed Mitigation			
	Permanent Intermittent (feet/ac)	Permanent Ephemeral (feet/ac)	Total Perm. Impact (feet/ac)	Temp. Intermittent (feet/ac)	Temp. Ephemeral (feet/ac)	Total Temp. Impact (feet/ac)	Temp. Intermittent (feet/ac)	Temp. Ephemeral (feet/ac)	Total Temp. Impact (feet/ac)		Type of Mitigation (Stream Rest., Enhancement, ILF, Creation and etc...)	Type and Amount (feet/ac)	Location (on-site or if off-site give stream name)	
POND 1				440		440	60		60	5-10 Years	Restoration	500	(1)	
FILL 1	3,000	3,830	6,830							Permanent	Stream Creation	3,692	(2)	
POND 2				180		180				5-10 Years	Restoration	180	(3)	
FILL 2	220	1,200	1,420		350	350			110	Permanent	Stream Creation	278	(4)	
POND 3									110	5-10 Years	Restoration		(5)	
FILL 3		1,200	1,200									1,335	(6)	
	3,220	6,230		620	350		60	110						
						970			170			4,650	7,390	
Totals			9,450	1,140							12,040			
				10,590										

- (1) 440' STREAM RESTORATION AT POND 1 (60' SECONDARY IMPACT FROM SEDIMENT CORRIDOR)
- (2) INTERMITTENT: 3,065' STREAM CREATION AT SEDIMENT CHANNEL 7 AND 627' STREAM CREATION AT SEDIMENT CHANNEL 4.
 EPHEMERAL: 4,260' RIPARIAN PLANTING AT DITCHES OF FILL 1.
- (3) 180' STREAM RESTORATION AT POND 2.
- (4) INTERMITTENT: 278' STREAM CREATION AT SEDIMENT CHANNEL 4.
 EPHEMERAL: 1,335' RIPARIAN PLANTING AT DITCHES OF FILL 1.
- (5) 350' STREAM RESTORATION AT POND 3 (110' SECONDARY IMPACT FROM SEDIMENT CORRIDOR)
- (6) EPHEMERAL: 1,335' RIPARIAN PLANTING AT DITCHES OF FILL 1.





Highland Mining Company
Georges Creek Surface Mine
200300688 – UnTrib Georges Creek
Drawing 2: Overall Plan View

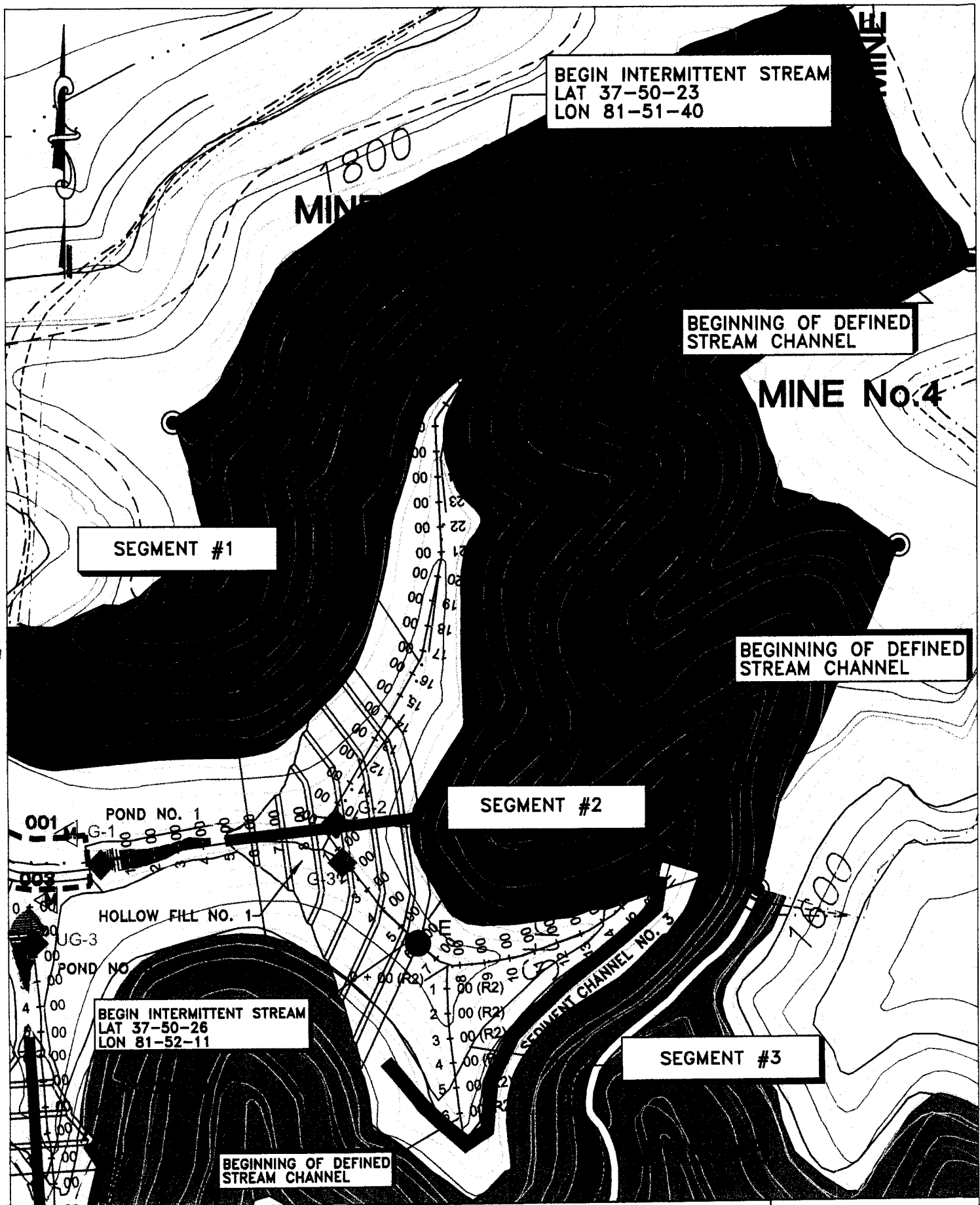
HIGHLAND MINING COMPANY
P.O. BOX 849
STOLLINGS, WEST VIRGINIA 25646

STREAM DELINEATION MAP
GEORGES CREEK

**SUMMIT
ENGINEERING
INC.**

Grundy, VA
Logan, WV
Charleston, WV

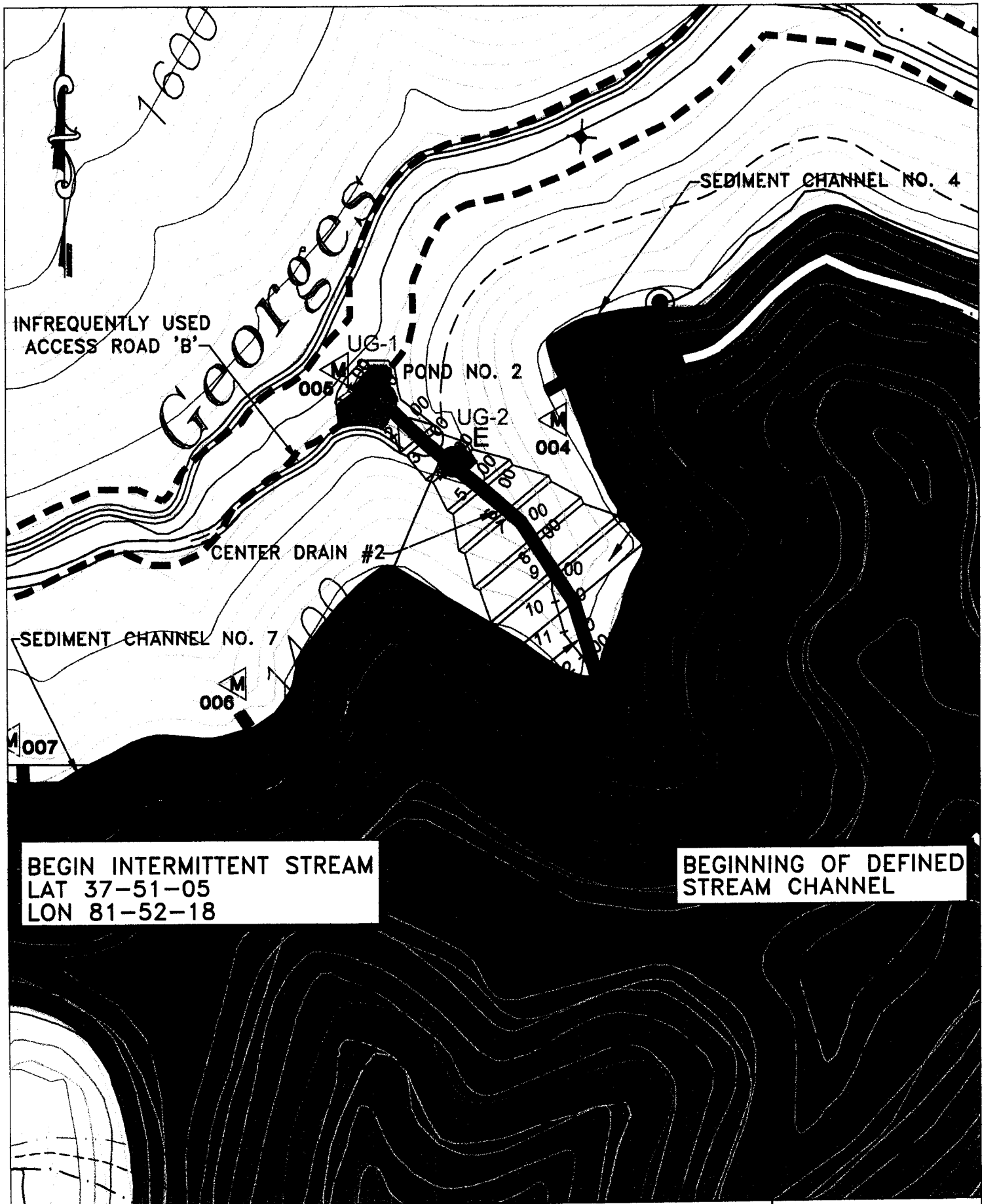
Pikeville, KY
Lexington, KY
Hazard, KY



Highland Mining Company
 Georges Creek Surface Mine
 200300688 – UnTrib Georges Creek
 Drawing 3: Vally fill 1/Pond 1

HIGHLAND MINING COMPANY
 P.O. BOX 849
 STOLLINGS, WEST VIRGINIA 25646
 POND NO. 1 AND VALLEY FILL NO. 1
 (STREAM DELINEATION)
 GEORGES CREEK

SUMMIT ENGINEERING INC.
 Grundy, VA Pikeville, KY
 Logan, WV Lexington, KY
 Charleston, WV Hazard, KY



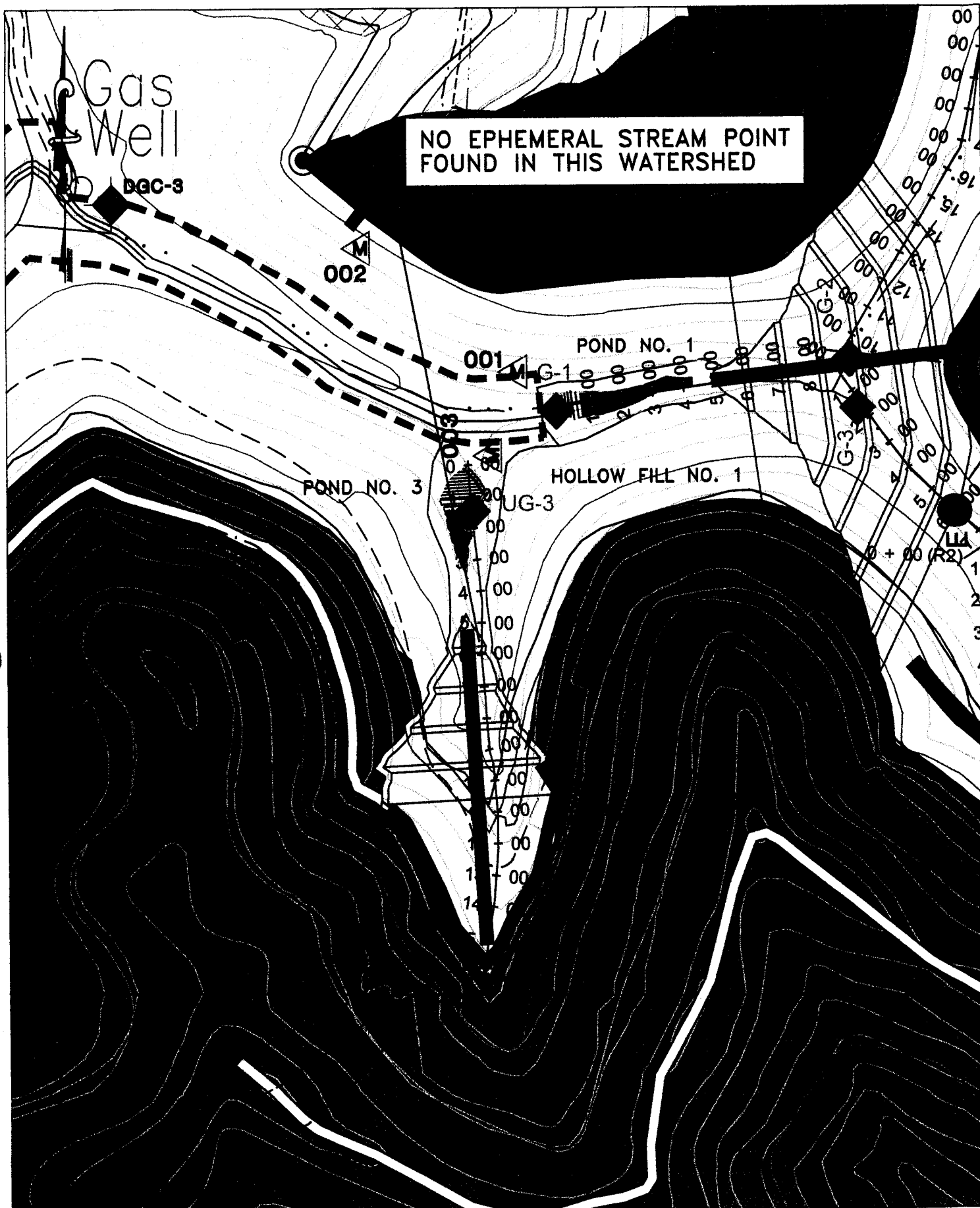
BEGIN INTERMITTENT STREAM
 LAT 37-51-05
 LON 81-52-18

BEGINNING OF DEFINED
 STREAM CHANNEL

Highland Mining Company
 Georges Creek Surface Mine
 200300688 – UnTrib Georges Creek
 Drawing 4: Vally fill 2/Pond 2

HIGHLAND MINING COMPANY
 P.O. BOX 849
 STOLLINGS, WEST VIRGINIA 25646
 POND NO. 2 AND VALLEY FILL NO. 2
 (STREAM DELINEATION)
 GEORGES CREEK

SUMMIT ENGINEERING INC.
 Grundy, VA
 Logan, WV
 Charleston, WV
 Pikeville, KY
 Lexington, KY
 Hazard, KY



Highland Mining Company
 Georges Creek Surface Mine
 200300688 – UnTrib Georges Creek
 Drawing 5: Vally fill 3/Pond 3

HIGHLAND MINING COMPANY
 P.O. BOX 849
 STOLLINGS, WEST VIRGINIA 25646
 POND NO. 3 AND VALLEY FILL NO. 3
 (STREAM DELINEATION)
 GEORGES CREEK

SUMMIT ENGINEERING INC.
 Grundy, VA
 Logan, WV
 Charleston, WV
 Pikeville, KY
 Lexington, KY
 Hazard, KY